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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/622,065  | 07/17/2003  | Morten Mernoe        | 606-55-PCT-CON      | 1837             |
| 22145   | 7590        | 06/09/2004           | EXAMINER            |                  |
| KLEIN, O'NEILL & SINGH<br>2 PARK PLAZA<br>SUITE 510<br>IRVINE, CA 92614 |             |                      | RICHTER, SHELDON J  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3748                |                  |

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,065

Applicant(s)

MERNOE, MORTEN

Examiner

Sheldon J Richter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 4 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/15/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-9, 11-14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shigeto, JP2-241990. JP2-241990 discloses a shape memory alloy actuator having a body 3, an activating member 3a, releasable holding means 6, 7, a first wire 1 and a second wire 2, and a biasing means 5. With reference to claims 2, 11, 13 and 18-19, note switches 8 and 9 of JP2-241990.

3. Claims 1-3, 5-9, 11-14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shigeru, JP60-166766. JP60-166766 discloses a shape memory alloy actuator having a body 3, an activating member 4, releasable holding means 9, 13, a first wire 11 and a second wire 12, and a biasing means 5. With reference to claims 2, 11, 13 and 18-19, note switch 8 of JP60-166766.

4. Claims 1, 3, 5-9, 12, 14 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsunehiko, JP62-131156. JP62-131156 discloses a shape memory alloy actuator having a body 16, an activating member 17, releasable holding means 22, a first wire 20 and a second wire 21, and a biasing means 23.

5. Claims 1, 3, 5-9, 12, 14 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsunehiko, JP62-66047. JP62-66047 discloses a shape memory alloy actuator having a body 15, an activating member 16, releasable holding means 18, a first wire 20 and a second wire 21, and a biasing means 23.

6. Claims 1-3, 5-14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kroll et al. Kroll et al discloses a shape memory alloy actuator having a body 32, an activating member 12, releasable

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holding means 30, 34, a first wire 16 and a second wire 20, and a biasing means 54. With reference to claims 2, 11, 13 and 18-19, note switches 24 and 28 of Kroll et al.

*Allowable Subject Matter*

7. Claims 4 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hart et al., Bouvot, Suzuki, Jacobsen et al., and Zhou et al. are cited to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheldon J Richter whose telephone number is (703) 305-0475. The examiner can normally be reached on M-F 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sheldon J Richter  
Primary Examiner  
Art Unit 3748

SJR